



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

May 16, 2000

GENERAL NOTICE LETTER FOR
RESPONSE ACTION AND INFORMATION REQUEST
URGENT LEGAL MATTER--PROMPT REPLY REQUESTED
CERTIFIED MAIL--RETURN RECEIPT REQUESTED

Merrill-Stevens Dry Dock Co.
Attn: James C. Merrill
1270 N.W. 11th Street
P.O. Box 1980
Miami, FL 33125

SUBJ: Florida Petroleum Reprocessors Site
Davie, Florida

Dear Mr. Merrill:

The purposes of this letter are as follows: first, to notify you or your company of the potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9607(a), as amended, that you or your company may have incurred with respect to the above-referenced Site; second, to inform you of potential response activities at the Site which you may be asked to perform or finance at a later date; third, to provide you with general and Site-specific information; and finally, to request that you respond to the Information Request enclosed herewith.

The Florida Petroleum Reprocessors (FPR) Site (the Site) is located at 3211 S.W. 50th Avenue, Davie, Florida. The Site over the years has also been known variously as Oil Conservationists, Inc., LMC Environmental, Inc., South Florida Fuels and Barry's Waste Oil, among other names. The principal activity conducted at the Site since 1978 has been the temporary storage and reprocessing of used oil. During this period of time, oil leaked from tanks and spilled onto the ground causing extensive soil contamination and possible groundwater contamination.

In 1996, a group of Potentially Responsible Parties conducted a removal action at the Site pursuant to a consent order with the U.S. Environmental Protection Agency (EPA) which entailed the removal of tanks and other equipment and material from the Site. In March 1999, EPA entered into a second consent order with the PRP Group which required the Group to excavate and remove contaminated surface soils from the FPR facility, to backfill the excavated area, and



to conduct additional soil sampling below the excavated area to determine the presence and extent of solvent contamination. The Group completed these activities in late 1999. In January 2000, the Group collected and analyzed samples from the existing ground water monitoring wells throughout the plume of contamination, and submitted a report to EPA. Additionally, the Group is considering conducting a removal action to address the deeper contaminated soils and contaminated groundwater at the FPR facility. This work is expected to be conducted pursuant to another consent order early this Summer. EPA is planning to issue a Proposed Plan for ground water remediation in Summer 2000, and a Record of Decision for ground water in the early fall 2000.

EPA has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the above-referenced Site. EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a potentially responsible party (PRP) or parties (PRPs) will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604. Before the United States Government undertakes further response actions, EPA requests that the PRPs voluntarily perform work necessary to address any releases or threatened releases of hazardous substances from the Site.

NOTICE OF POTENTIAL LIABILITY

Potentially responsible parties under CERCLA include: the current owners or operators of the Site; persons who at the time of disposal of hazardous substances owned or operated the Site; persons who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for disposal or treatment of hazardous substances; and persons who accept or accepted any hazardous substance for transport to disposal facilities and selected such facilities. Under CERCLA and other laws, PRPs may be liable for all funds expended by the United States Government in responding to any release or threat of release at the Site, including planning, investigation, cleanup and enforcement activities associated with the Site. In addition, PRPs may be required to pay damages for injury to natural resources or for their destruction or loss, together with the cost of assessing such damages.

Based on information received during the investigation of this Site, EPA believes that you or your company as a generator and/or transporter of hazardous substances at the Site may be a responsible party under Section 107 of CERCLA, 42 U.S.C. § 9607(a).¹ The evidence documenting your or your company's contribution of hazardous substances to the Site is enclosed

¹ Several of the Respondents receiving this letter may have already received a similar notice letter and CERCLA information request in the past. Evidence packages, however, were either incomplete or may not have been provided with those previous letters. Hence, the evidentiary information enclosed with this letter should enable various Respondents to more completely answer the enclosed information request and to determine if it is appropriate to join the PRP Group.

with this letter and is also contained in an internet website set up by the Group. Two types of evidence exist that document each parties' contribution to the Site contamination: (1) copies of waste oil receipts and (2) copies of computer printouts compiled from transporter logs. The Group's website address is fpr.hklaw.com. Upon accessing the website, instructions are provided to enable you to access the evidence for any particular PRP. The user name and password that you will need to access the website are; user name: [hkextra\fprguest](#) and password: [tryout99](#). If you have any trouble accessing this website or the information contained therein, please contact the Group's paralegal, Annie Fox, at (305) 789-7767.

SPECIAL NOTICE AND NEGOTIATION MORATORIUM

We anticipate that you or your company will receive an additional notice from EPA in the future. That notice will either inform you or your company that EPA is using the special notice procedures of Section 122(e) of CERCLA 42 U.S.C. §9622(e), to formally negotiate terms of a consent order to conduct or finance site response activities, or it will inform you or your company that EPA is not using such procedures pursuant to CERCLA Section 122(a). If EPA does not use Section 122(e) special notice procedures, the letter will specify that special notice was not appropriate in this case and will specify what procedures, if any, will be used.

Under Section 122(e), EPA has the discretionary authority to use the special notice procedures if EPA determines that such procedures would facilitate an agreement between EPA and the PRPs and would expedite remedial action at the Site. Use of the special notice procedures triggers a moratorium on certain EPA response activities at the Site. The purpose of the moratorium is to provide a period of time when PRPs and EPA may enter into formal negotiations for the PRPs to conduct and/or finance the response activities at the Site.

The moratorium for the Remedial Design/Remedial Action (RD/RA) lasts for 60 days after receipt of the notice. If a good faith offer to perform or finance the activities is submitted by the PRPs within those 60 days, an additional 60 days is provided for further negotiations.

If EPA determines that a good faith offer has not been submitted within the first 60 days of the moratorium period, EPA may terminate the negotiation moratorium under Section 122(e)(4) of CERCLA. EPA is then authorized to commence such cleanup or enforcement actions as it deems appropriate. In the absence of an agreement with the parties to perform or finance the necessary cleanup activities, EPA may undertake these activities and pursue civil litigation against the parties for reimbursement of Site expenditures.

ADMINISTRATIVE RECORD

Pursuant to Section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA has established an administrative record which contains documents that form the basis of EPA's decisions on the selection of response actions for the Site. This administrative record is open to the public for inspection and is maintained by EPA at its Region 4 office, 61 Forsyth Street, S.W., Atlanta, Georgia 30303. A copy is also maintained at the Broward County Library-Riverland Branch, 2710 West Davie Boulevard, Fort Lauderdale, Florida.

PRP STEERING COMMITTEE

EPA would like to encourage good faith negotiations between the PRPs and EPA and between you or your company and the other PRPs. To assist you in negotiating with EPA concerning this matter, EPA is providing as Enclosure A to this letter a PRP information package which includes a list of names and addresses of PRPs to whom a general notice letter is being or has been sent. This list represents EPA's preliminary findings on the identities of PRPs. Inclusion on or exclusion from the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the Site.

A Steering Committee has been formed for the purpose of negotiating with the EPA regarding response actions at the Site. EPA encourages you to contact and, if necessary, to join this Committee. To discuss your membership in the Committee and participation in future negotiations with EPA as a member of the Committee, you should call Mr. Matthew P. Coglianese at the law firm of Holland & Knight LLP, in Miami Florida at (305) 374-8500. Mr. Coglianese can provide you with information about other members of the Committee. Alternatively, EPA encourages each PRP to select one person from its company or organization who will represent its interests.

INITIAL MEETING

EPA will hold an initial meeting with the PRPs on Monday, June 5, 2000 at 2:00 p.m. The meeting will be held at the Broward County Public Library, Main Auditorium, 100 South Andrews Avenue, Fort Lauderdale, Florida 33301. The purpose of this meeting is to provide information regarding the Superfund process and to specifically discuss the Florida Petroleum Reprocessors Site and future actions planned by EPA.

PRP RESPONSE AND EPA CONTACT PERSON

You or your company is requested to provide EPA with a letter of intent within forty-five (45) days of receipt of this letter of your willingness to conduct or finance response activities at the Site and to participate in possible future negotiations. You may respond individually or through the steering committee. Your letter should include the appropriate person's name, address and telephone number for further contact with you or your company.

If EPA does not receive a timely response in writing, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the response activities, and that you or your company has declined any involvement in performing the response activities. You or your company may be held liable by EPA under Section 107 of CERCLA, 42 U.S.C. § 9607, for the cost of the cleanup activities EPA performs at the Site and for any damages to natural resources.

If you or your company is already involved in discussions with state or local authorities, engaged in voluntary cleanup action, or is involved in a lawsuit regarding this Site, you or your company should continue such activities as appropriate. This letter is not intended to advise you or your company or direct you or your company to restrict or discontinue any such activities; however, you or your company is advised to report the status of those discussions or actions in

your response to this letter, and to provide a copy of your response to any other parties involved in those discussions or actions.

INFORMATION REQUEST

You are hereby requested to respond on behalf of yourself or your company to the Information Request set forth in Enclosure B, enclosed herein, pursuant to the authority of Section 104 of CERCLA, 42 U.S.C. § 9604, and Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927. Based upon information in EPA's possession concerning the operations at the Site, EPA has reason to believe that you or your company has knowledge concerning the current and/or former ownership of the Site, the current and/or former operators of the Site, the transportation of hazardous substances to the Site, and/or the disposal of hazardous substances found at the Site.

The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You or your company may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secrets," "proprietary" or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you or your company. You should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.

Compliance with the Information Request set forth in Enclosure B is mandatory. Failure to respond fully and truthfully in writing to this request or to justify adequately in writing your failure to respond within forty-five (45) days of receipt of this letter may result in enforcement action by EPA pursuant to Section 104 of CERCLA, as amended, 42 U.S.C. § 9604, and/or Section 3008 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928. Each of these statutes permits EPA to seek the imposition of penalties of up to \$27,500 for each day of continued noncompliance. Please be further advised that submission of false or fraudulent statements or representations may subject you or your company to criminal penalties under 18 U.S.C. § 1001 or Section 3008(d) of RCRA.

Your response to this notice letter and the Information Request should be sent to:

Andrew N. Hey
Paralegal Specialist
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

The enclosed Information Request is not subject to the Paperwork Reduction Act of 1980, 5 C.F.R. § 1320.3(c).

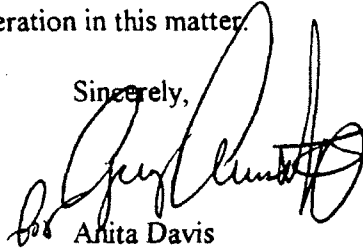
If you have any legal questions regarding the General Notice or Information Request in this letter, please direct such questions to Andrew Hey, Paralegal Specialist at (404) 562-9522 or to Rudolph C. Tanasijevich Esq., Associate Regional Counsel, at (404) 562-9557. If you have any *technical questions*, please direct such questions to Brad Jackson, Remedial Project Manager, at the above address, or at (404) 562-8756.

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond properly, EPA strongly encourages you to give this matter your immediate attention and to respond within the time specified above.

Finally, an information sheet has been included that is intended to inform small businesses of their right to comment *to the SBREFA Ombudsman* about EPA enforcement activity, as well as to provide information on compliance assistance.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Anita Davis", with a stylized flourish at the end.

Anita Davis
Chief, CERCLA Enforcement Section
Waste Management Division

Enclosures

UNITED STATES
LOS ANGELES
MIAMI
NEW YORK
PALO ALTO
WASHINGTON, D. C.

EUROPE
BRATISLAVA
BRUSSELS
BUDAPEST
FRANKFURT
HELSINKI
ISTANBUL
LONDON
MOSCOW
PARIS
PRAGUE
STOCKHOLM
WARSAW

WHITE & CASE

LIMITED LIABILITY PARTNERSHIP

FIRST UNION FINANCIAL CENTER
200 SOUTH BISCAYNE BOULEVARD
MIAMI, FLORIDA 33131-2352

TELEPHONE: (1-305) 371-2700
FACSIMILE: (1-305) 358-5744

ASIA
ALMATY
ANKARA
BANGKOK
BOMBAY
HANOI
HO CHI MINH CITY
HONG KONG
SINGAPORE
TOKYO

MIDDLE EAST
JEDDAH
RIYADH

LATIN AMERICA
MEXICO CITY
SAO PAULO

AFRICA
JOHANNESBURG

DIRECT DIAL: (305) 995-5240

August 22, 2000

**CERTIFIED MAIL - RETURN
RECEIPT REQUESTED**

Rudolph C. Tanasijevich, Esq.
Associate Regional Counsel
U.S. Environmental Protection Agency,
Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Re: Information Request to Merrill-Stevens
Florida Petroleum Reprocessors

Dear Rudy:

Attached please find Merrill-Stevens' response to your 104(e) request regarding the Florida Petroleum Reprocessors Site in Broward County, Florida. It is Merrill-Stevens' intention to join the PRP Group.

Please note that from 1948 to March 31, 1990 Merrill-Stevens operated a facility on property leased from the City of Miami in Dinner Key, Coconut Grove. After March 31, 1990, Merrill-Stevens had no interest in the facility, although the Company's name remained painted on the roof of the building. Additionally, from late 1986 to approximately September 1987, Merrill-Stevens maintained a small part-time yacht sales office at the "Yacht Yard" in Fort Lauderdale, Florida, but we had no interest in the marina or the service operations of the facility.



WHITE & CASE

LIMITED LIABILITY PARTNERSHIP

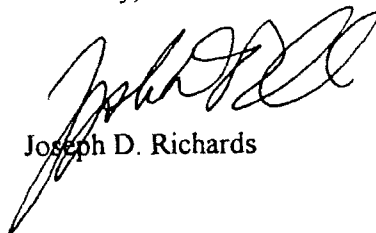
Rudolph C. Tanasijevich, Esq.

August 22, 2000

Page 2

If you require anything further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph D. Richards", written over the printed name.

Joseph D. Richards

JDR:llw

Enclosure

cc: Merrill-Stevens

Merrill-Stevens

INFORMATION REQUEST

1. Please state the name and address of the person(s) who furnished the answer, and with whom you consulted for the answer to each question contained herein. Also, for each question herein, identify and provide a copy of each and every document relied upon to form the basis of your response to the question.

Answer:

Fred Kirtland, President
Phil Everingham, Vice President of Administration
Tom Dinan, Vice President of Production
Ron Baker, Vice President of Operations
Paul Goldberg, Purchasing Manager

2. List all current and past legal names of your company.

Answer:

The Company has always been known as Merrill-Stevens Dry Dock Company.

3. Describe the nature of your company's business and identify the products produced, services provided, raw materials used, and waste materials generated.

Answer:

Merrill-Stevens maintains and repairs yachts and some commercial vessels at its dry dock facility. Work conducted on these vessels includes painting, carpentry, mechanics, welding, machining, electrical, refrigeration and air conditioning. Raw materials used in these operations include oil and other lubricants, grease, paints, solvents, polyurethane, steel, aluminum, wood, fiberglass, gelcoat and vinyl. Waste generated includes waste oil, oily bilge water, used paint thinner, waste paint and miscellaneous solid waste.

4. Have you or your company ever sent or transported or contracted with or used a waste disposal company to send or transport waste generated or created by you or your company to the Site?

Answer:

We have no knowledge about whether waste from the Company ever went to the Site. Our records do reflect that Florida Petroleum, Inc. at 3211 S.W. 50th Avenue, Davie, Florida, was a vendor to the Company.

5. Identify the names and addresses of all persons or waste disposal companies that Respondent contracted with, employed or used during its operations to transport Respondent's waste materials to the Site.

Answer:

See answer to Number 4.

6. Did you or your company ever have any type of business relationship with Florida Petroleum Reprocessors; Oil Conservationists, Inc.; LMC Environmental, Inc.; Barry's Waste Oil; South Florida Fuels; and any other business of which you are aware which has operated at the Site which is located at 3211 S.W. 50th Avenue, Davie, Florida?

Answer:

Yes. See answer to Number 4.

7. If the answer to both questions 4 and 6 above is no, then describe the nature of the materials and the transactions related to you or your company that are identified in the documentary evidence enclosed with this General Notice Letter.

Answer:

N.A.

8. Describe any and all business relationships that you or your company had with Florida Petroleum Reprocessors; Oil Conservationists, Inc.; LMC Environmental, Inc.; Barry's Waste Oil; South Florida Fuels; and any other business of which you are aware which has operated at the Site which is located at 3211 S.W. 50th Avenue, Davie, Florida.

Answer:

Florida Petroleum, Inc. is on the Company's vendor list. The Company, however, has no other information enabling it to describe the business relationship with Florida Petroleum, Inc. See attached copy of vendor list page.

9. Describe the contracts, arrangements, nature of the transactions (including disposal fees paid), and time periods during which your company had its waste oil removed or transported from your business by any of the companies listed in response to questions 6 and 8 above.

Answer:

See Answers to questions 4 and 8.

10. For each contract, arrangement or agreement identified in response to question 9 above, identify each person who hauled, observed, managed, planned, supervised or arranged for the sale, transportation, disposal and/or treatment of your waste oil or used oil or was involved in any way with the process.

Answer:

Paul Goldberg, the Company's purchasing manager, would have arranged for the disposal of waste oil. He has no recollection of the entities listed.

11. Describe the waste oil or used oil which was sold to, transported to, treated and/or disposed of at the Site, including:
- the volume in gallons, tons or cubic yards;
 - its source or sources;
 - the purpose for which it had been previously used (i.e. bilge tanks, engines, etc.);
 - its chemical composition and constituents; and whether it contained or was contaminated with any hazardous substances as defined in Section 101(14) or CERCLA, and if so, identify such hazardous substances.

Also, please provide the dates or frequencies of each transaction and furnish any and all documentation which in any way characterizes this information and the composition and constituents of the waste oil or used oil generated by you or your company and transported to the Site.

Answer:

We do not have any records or recollection of the volumes of liquids we generated during the applicable time frame, 1984-1990. Merrill-Stevens had no control over where our wastes were disposed, but we do generate petroleum products that are collected by haulers. We generate a small amount of used oil from oil changes, engine work and from pumping the waste oil tanks from the larger vessels we service. We regularly pump the bilges of the yachts we service and the bilges often contain oily water. Oily water probably makes up 50% of the liquids we generate. We also pump unused diesel fuel from yachts before performing service work on fuel tanks. We maintain this fuel in 55 gallon drums separate from the oily water and used oil collected from yachts.

12. If you maintain that you or your company did not have waste disposed of at the Site, identify the names and addresses of all persons or waste disposal companies that respondent contracted with, employed or used during its operations to transport Respondent's waste materials.

Answer:

At various times, our used oil was collected by Ricky's Waste Oil and Neff Oil. We also remember using American Waste Oil Co. Since 1991, we have used EMC Oil Corporation, exclusively.

13. Please describe where and how the waste oil or used oil collected from your business was stored or maintained prior to its collection and transfer from your facility to the Site (i.e.

above ground tanks, underground storage tanks (USTs), tank trucks, barrels, drums, bilge tanks, etc.).

Answer:

Waste oil and oily bilge water and unused diesel fuel generated during boat repair and maintenance is stored in 55 gallon drums. Diesel fuel was kept in drums separate from the oil and oily water. The Coconut Grove facility maintained a 300 gallon above ground storage tank for waste oil.

14. Please describe, to the best of your knowledge, any materials in addition to the waste oil and used oil (i.e. solvents, degreasers...), which were typically stored within and/or disposed of in the containers described in your answer to question 13 above.

Answer:

No other materials were stored in these drums.

15. For the above question, please describe the types of records that were maintained by you or company (or predecessor company) for the transactions regarding the off-site transfer and disposal of your waste oil, including the dates these records were generated, the authors of these records, and the current location and custodian of these records. Please provide a copy of each such record.

Answer:

We do not have any records of waste oil transactions for the time period in question.

ADDRESS REPORT
OF 04/18/00

EXTRA ADDRESS	CITY	ST	ZIP	TELEPHONE #	EXT
1601 N.W. 7TH AVE.	TAMPA	FL	33601	(305) 944-1441	
	MIAMI	FL	33136	(305) 324-8000	
	MIAMI	FL	33142	(305) 634-1551	
R DR	MIAMI	FL	33142	(305) 634-1551	
	MIAMI	FL	33130	(305) 285-0359	
	W. PALM BEACH	FL	33407	(361) 653-3771	
	INVERNESS	FL	34450	(352) 212-3730	
	ATLANTA	GA	30336	(404) 621-1193	
	MIAMI	FL	33137	(305) 573-8424	
	MIAMI	FL	33125	(305) 634-3541	
	MIAMI	FL	33166	(305) 592-1711	
	PLANTATION	FL	33317	(305) 792-5961	
OAD	MIAMI	FL	33137	(305) 751-1646	
	HIALEAH GARDEN	FL	33016	(305) 556-2121	
	MIAMI	FL	33142	(305) 635-6412	
T P O BOX 2000	TAMPA	FL	33601	(813) 223-9702	
	MIAMI	FL	33142	(305) 634-2020	
	HIALEAH	FL	33014	(305) 620-9030	
	MIAMI	FL	33130	(305) 285-0359	
	DAVIE	FL	33329	(305) 584-5500	
-S-9	MIAMI	FL	33136	(305) 324-1731	
	RIVIERA BEACH	FL	33404	000 000 0000	
	DANIA	FL	33004	(305) 949-3521	
	MIAMI	FL	33127	(305) 576-6760	
	FT. LAUDERDALE	FL	33304	(305) 764-8273	
	FT. LAUDERDALE	FL	33331	(305) 945-5536	
T REET	MIAMI	FL	33142	(305) 634-6865	
	SEATTLE	WA	98105	(206) 522-3610	
	JACKSONVILLE	FL	32208	(305) 764-7558	
	MARINA DEL REY	CA	90299	(213) 646-3090	
	ATLANTA	GA	30394	(724) 479-4500	
2ND FLR SUITE B	MIAMI	FL	33135	000 000 0000	
	MIAMI	FL	33101	000 000 0000	
	N. MIAMI	FL	33181	000 000 0000	
	MIAMI	FL	33181	000 000 0000	
	SEATTLE	WA	98117	000 000 0000	
	CHARLOTTE	NC	28265	(305) 625-8383	
	SUNRISE	FL	33323	(954) 741-4367	
	MIAMI	FL	33132	(305) 324-6161	
	MIAMI	FL	33156	000 000 0000	
	HUDSON	NY	12534	000 000 0000	
	SARASOTA	FL	34231	(203) 567-4048	
N.W.	ATLANTA	GA	30305	000 000 0000	
	ATLANTA	GA	30305	000 000 0000	
	FT. LAUDERDALE	FL	33301	(305) 467-7723	
	CLEVELAND	OH	44101	(216) 232-3000	
	XX	XX	XX	000 000 0000	



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

December 6, 2002

4WD-CPSB

INFORMATION REQUEST LETTER
URGENT LEGAL MATTER - PROMPT REPLY REQUESTED
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Merrill Stevens Dry Dock Co.
c/o Daniel Morman, Esq.
200 S. Biscayne Blvd., Suite 1800
Miami, Florida 33131

SUBJ: Request for Information Pursuant to Section 104 of CERCLA and Section 3007 of RCRA with Regard to Florida Petroleum Reprocessors Superfund Site Located in Davie, FL

Dear Mr. Morman:

The purpose of this letter is to request that Merrill Stevens Dry Dock Co., hereafter referred to as "the Company" respond to the enclosed Information Request. The United States Environmental Protection Agency (EPA) is currently investigating the release or threatened release of hazardous substances, pollutants or contaminants, or hazardous wastes on or about the Florida Petroleum Reprocessors Superfund Site located in Davie, Florida (the Site). This investigation requires inquiry into the identification, nature, and quantity of materials generated, treated, stored, or disposed of at, or transported to, the Site and the nature or extent of a release or threatened release of hazardous substances or pollutants or contaminants at or from the Site. EPA is also seeking information relating to the ability of parties to pay for or to perform response actions at the Site.

Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604, as amended, and Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927, you are hereby requested to respond to the Information Request set forth in Enclosure A hereto.

Compliance with the Information Request is mandatory. Failure to respond fully and truthfully to the Information Request within thirty (30) days of receipt of this letter, or to adequately justify such failure to respond, can result in enforcement action by EPA pursuant to Section 104(e) of CERCLA, as amended, and/or Section 3008 of RCRA. Each of these statutes permits EPA to seek the imposition of penalties of up to twenty-seven thousand and five hundred dollars (\$27,500) for each day of continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations to the Information



Request may subject you to criminal penalties under 18 U.S.C. § 1001 or Section 3008(d) of RCRA, 42 U.S.C. § 6928(d).

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

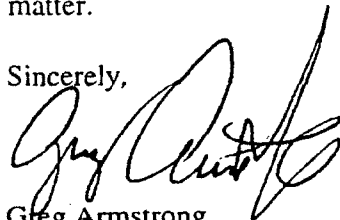
Your response to this Information Request should be mailed to:

Greg Armstrong
U.S. EPA - Region 4
CERCLA Program Services Branch
Waste Management Division
61 Forsyth Street, SW
Atlanta, Georgia 30303

Due to the seriousness of the problem at the Site and the legal ramifications of your failure to respond properly, EPA strongly encourages you to give this matter immediate attention and to respond to this Information Request within the time specified above. If you have any legal or technical questions relating to this Information Request, you may consult with EPA prior to the time specified above. Please direct legal questions to Rudy Tanasijevich, Associate Regional Counsel, at (404) 562-9557. Technical questions should be directed to Greg Armstrong, at (404) 562-8872.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Armstrong', is written over a horizontal line.

Greg Armstrong
Enforcement Project Manager

Enclosure

ENCLOSURE A

Florida Petroleum Reprocessors Site/Davie, Florida

INFORMATION REQUEST

Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the number of the Question to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.
4. For each document produced in response to this Information Request indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
5. The information requested herein must be provided even though the Respondent may contend that it includes possibly confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. Sections 9604(e)(7)(E) and (F), Section 3007(b) of RCRA, 42 U.S.C. Section 6927(b), and 40 C.F.R. Section 2.203(b), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary," or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent, and only by means, of the procedures set forth in statutes and regulation set forth above. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.

Definitions

The following definitions shall apply to the following words as they appear in this Enclosure A:

1. The term "you" or "Respondent" or "the Company" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.
2. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.
3. The terms the "Site" or the "facility" shall mean the Florida Petroleum Reprocessors Superfund Site, which includes the Florida Petroleum Reprocessors facility which is an abandoned waste oil recycling operation located at 3211 SW 50th Avenue in Davie, Broward County, Florida, south of Fort Lauderdale. The FPR facility comprises approximately one acre in an industrial area immediately east of the Florida Turnpike and one half mile south of Interstate 595. The FPR Site also includes the ground water contamination that exists between the FPR facility and the southern portion of the Peele-Dixie Wellfield which is located approximately one mile north of the FPR facility in a residential area. In addition to the contaminants that have been released from the FPR facility, a second source of groundwater contamination appears to be located along the south side of I-595, and east of the Florida Turnpike. This second source is the location of a former junkyard known as Starta Sales & Salvage that operated at the location from 1965 until 1974. Motor City, Inc. continued to operate a junkyard at this location from 1974 until 1984. A Goodyear tire store opened on a portion of this location in 1979. The property was subsequently acquired by the Florida Department of Transportation (FDOT) in 1984 during the construction of I-595. Construction of this section of the Interstate did not begin until the late 1980s. This groundwater contamination covers an area of approximately 870 acres in size and is generally bounded to the north by Peters Road, that divides the northern and southern portion of the Peele-Dixie Wellfield, to the east by U.S. Route 441, to the south by Orange Drive, and to the west by the Florida Turnpike.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such pollutants and contaminants with any other substances. Petroleum products mixed with pollutants and contaminants are also included in this definition.
5. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
6. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.

7. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to, all hazardous substances, pollutants and contaminants, hazardous wastes and solid wastes, as defined above.

8. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.

9. The term "non-hazardous material" shall mean all material as defined above, excluding hazardous substances, pollutants and contaminants, and hazardous waste.

10. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

11. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

12. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, issuer, addressee and/or recipient, and the substance or the subject matter.

13. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

14. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreement and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each

document which is not an exact duplicate of a document which is produces, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

15. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

16. The term "arrangement" means every separate contract or other agreement between two or more persons.

17. The terms "transaction" or "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.

18. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

19. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case the statutory or regulatory definitions shall apply.

20. The term "property interest" means any interest in property including but not limited to, any ownership interest, including an easement, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.

21. The term "asset" shall include the following: real estate, buildings or other improvements of real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interest in insurance policies, interests in partnerships, corporations and unincorporated companies, securities, patents, stocks, bonds, and other tangible as well as intangible property.

QUESTIONS

1. Identify the person(s) answering these Questions on behalf of Respondent.
2. What is the current status of the Company? Is the Company currently active, dissolved, etc.
3. Please describe in detail the corporate structure of the Company. Please include a list of all officers of the Company and their respective duties. If the Company is unincorporated, please identify the current owner(s) and their respective interest and duties in the Company.
4. Provide a copy of the most current Articles of Incorporation and By-laws of the Company.
5. Provide a list of all state incorporations, subsidiaries, and parent companies of the Company.
6. Provide copies of all financial documents, including income tax returns sent by the Company to the federal Internal Revenue Service in the last five years.
7. Provide copies of financial statements, reports, or projections prepared by, for or on behalf of the Company for the past five years, whether audited or unaudited, including, but not limited to, all those filed with the Securities and Exchange Commission, state agencies, and all financial institutions such as banks.
8. In the event the Company does not have prepared financial statements or reports, please fill out one of the enclosed forms as follows:
 - if you are a company or corporation, please fill out the enclosed "Financial Statement of Corporate Debtor"
 - if you are not a company or corporation, please fill out the enclosed "Individual Ability to Pay Claim Financial Data Request Form"

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December 11, 2002

Via Overnight Mail

Greg Armstrong
U.S. E.P.A. - Region 4
CERCLA Program Services Branch
Waste Management Division
61 Forsyth Street, SW
Atlanta, Georgia 30303

RE: Request for Information dated December 6, 2002 directed to Merrill Stevens Dry Dock Co. regarding Florida Petroleum Reprocessors Superfund Site - Davie, FL

Dear Mr. Armstrong:

We are in receipt of the package enclosed with the above referenced correspondence, and are in the process of completing the information request. A telephone call was placed to your office yesterday afternoon to inquire as to whether the Individual Ability to Pay package is relevant in this instance.

Please note that Merrill Stevens Dry Dock Co. ("Merrill Stevens") has maintained it is not a PRP for the reason that it falls into the *de minimus* category as a party that generated less than 5,000 gallons of waste oil. By way of background, you should know that vessels in and out of Merrill Stevens' yard would themselves, through the vessels' captains, arrange for the retrieval and/or disposal of bilge waters and waste oils on those vessels. While certain reports may name Merrill Stevens, we believe it was by way of location only and not an indication that Merrill Stevens was the contracting party. Indeed, our client's representatives familiar with the procedure note that contact was almost always between the particular vessel Captain and the hauler, with the hauler paying the Captain for the pick up or the Captain paying the hauler for the service.

Additionally, to the extent that Merrill Stevens did arrange for hauling of materials from its property, the bulk of the materials transported constituted bilge water and not waste oil. This bilge water was never owned by Merrill Stevens. In fact, the hauler of this bilge water from Merrill Stevens stored the water in a different compartment than that which was used for waste oil. Finally,



10754482

Mr. Greg Armstrong

RE: Request for Information dated December 6, 2002 from Merrill Stevens Dry Dock Co.
Florida Petroleum Reprocessors Superfund Site - Davie, FL

December 11, 2002

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it should be noted that the ratio of bilge water to waste oil which was picked up by the hauler from Merrill Stevens was approximately 5:1. In other words, approximately 80% of the materials hauled from Merrill Stevens was bilge water - only 20% was waste oil.

Approximately 19,850 total gallons of waste oil was claimed to have originated from Merrill Stevens. This is incorrect. Most of this total gallonage should never have been attributed to Merrill Stevens in the first place. Further, for the sake of argument, even if all of the claimed gallonage originated from Merrill Stevens, only one-fifth of that total, or 3,970 gallons could have been waste oil. In either analysis, Merrill Stevens would fall below the 5,000 gallon *de minimus* amount.

Please note that Merrill Stevens recognizes the gravity of this situation and understands the need to cooperate with the government. We have, in the past, been in close contact with the PRP Group and have extended our full cooperation. However, we have heard nothing more from the PRP Group counsel since presenting our client's position. This may be due to the fact that the attorney previously assigned to the matter is no longer with the Holland & Knight firm. We would therefore appreciate your attention to this matter. Thank you.

Yours truly,



Patrick C. Barthet
For the Firm

PCB:dm

cc: Client